

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 9, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 514

Introduced by Assembly Member Williams

February 23, 2015

An act to amend ~~Section 25132~~ *Sections 25132 and 53069.4* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 514, as amended, Williams. Ordinances: violations: *administrative* fines.

Existing law authorizes the legislative body of a city, county, or city and county to collect any fee, cost, or charge incurred in specified activities, including the abatement of public nuisances, enforcement of specified zoning ordinances, inspections and abatement of violations of the State Housing Law, inspections and abatement of violations of the California Building Standards Code, and inspections and abatement of violations related to local ordinances that implement these laws. Existing law limits the amount of this fee, cost, or charge to the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

Existing law authorizes the legislative body of a local agency to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for

infractions, as specified. For violations of city or county building and safety codes determined to be an infraction, existing law limits the amount of the fine to \$100 for a first violation, \$500 for a 2nd violation of the same ordinance within one year, and \$1,000 for each additional violation of the same ordinance within one year of the first violation.

~~This bill would eliminate these fine amounts for violations of local building and safety code ordinances determined to be an infraction and instead authorize~~ *limit* the *administrative* fine amounts for violations of ~~specified~~ *certain* county ordinances, including ~~local~~ *a county* building and safety ~~ordinances~~, *ordinance*, *brush removal ordinance*, *grading ordinance*, *film permit ordinance*, or *zoning ordinance*, determined to be an infraction ~~to be established by an ordinance that is subject to specified maximum amount requirements for the first, 2nd, 3rd, and subsequent violations of the same ordinance, as specified.~~ *If one of these specified ordinances is not subject to a fine ordinance, this bill would specify the amount of the fine.* By imposing duties on counties regarding *administrative* fine ~~or penalty~~ amounts for violation of specified ordinances, including local building and safety ordinances, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 25132 of the Government Code is*
- 2 *amended to read:*
- 3 25132. (a) Violation of a county ordinance is a misdemeanor
- 4 unless by ordinance it is made an infraction. The violation of a
- 5 county ordinance may be prosecuted by county authorities in the
- 6 name of the people of the State of California, or redressed by civil
- 7 action.
- 8 (b) Every violation determined to be an infraction is punishable
- 9 ~~by (1) a~~ *by the following:*

1 (1) A fine not exceeding one hundred dollars (\$100) for a first
2 ~~violation; (2) a violation.~~

3 (2) A fine not exceeding two hundred dollars (\$200) for a second
4 violation of the same ordinance within one ~~year; (3) a year.~~

5 (3) A fine not exceeding five hundred dollars (\$500) for each
6 additional violation of the same ordinance within one year.

7 (c) Notwithstanding any other provision of law, a violation of
8 local building and safety codes determined to be an infraction is
9 punishable ~~by (1) a~~ *by an administrative fine described in Section*
10 *53069.4 or by one of the following:*

11 (1) A fine not exceeding one hundred dollars (\$100) for a first
12 ~~violation; (2) a violation.~~

13 (2) A fine not exceeding five hundred dollars (\$500) for a second
14 violation of the same ordinance within one ~~year; (3) a year.~~

15 (3) A fine not exceeding one thousand dollars (\$1,000) for each
16 additional violation of the same ordinance within one year of the
17 first violation.

18 SEC. 2. *Section 53069.4 of the Government Code is amended*
19 *to read:*

20 53069.4. (a) (1) The legislative body of a local agency, as the
21 term “local agency” is defined in Section 54951, may by ordinance
22 make any violation of any ordinance enacted by the local agency
23 subject to an administrative fine or penalty. The local agency shall
24 set forth by ordinance the administrative procedures that shall
25 govern the imposition, enforcement, collection, and administrative
26 review by the local agency of those administrative fines or
27 penalties. Where the violation would otherwise be an infraction,
28 the administrative fine or penalty shall not exceed the maximum
29 fine or penalty amounts for infractions set forth in subdivision (b)
30 of Section 25132 and subdivision (b) of Section 36900.

31 (2) *Notwithstanding paragraph (1), the amount of an*
32 *administrative fine for the violation of a county building and safety*
33 *ordinance, brush removal ordinance, grading ordinance, film*
34 *permit ordinance, or zoning ordinance, that is determined to be*
35 *an infraction shall be based upon the severity of the threat to public*
36 *health and safety and shall not exceed the following:*

37 (A) *For the first violation, an amount that does not exceed five*
38 *thousand dollars (\$5,000) or the amount of the permit fee required*
39 *by the ordinance multiplied by three, whichever is less. In the*

1 *absence of a permit fee, an amount that does not exceed one*
2 *thousand dollars (\$1,000).*

3 *(B) For the second violation of the same ordinance within five*
4 *years of the first violation, an amount that does not exceed ten*
5 *thousand dollars (\$10,000) or the amount of the permit fee required*
6 *by the ordinance multiplied by five, whichever is less. In the*
7 *absence of a permit fee, an amount that does not exceed two*
8 *thousand five hundred dollars (\$2,500).*

9 *(C) For the third violation and subsequent violations of the*
10 *same ordinance within five years of the first violation, an amount*
11 *that is greater than ten thousand dollars (\$10,000), but does not*
12 *exceed fifteen thousand dollars (\$15,000). In the absence of a*
13 *permit fee, an amount that does not exceed five thousand dollars*
14 *(\$5,000).*

15 ~~(2)~~(3) The administrative procedures set forth by ordinance
16 adopted by the local agency pursuant to ~~paragraph (1)~~ *this*
17 *subdivision* shall provide for a reasonable period of time, as
18 specified in the ordinance, for a person responsible for a continuing
19 violation to correct or otherwise remedy the violation prior to the
20 imposition of administrative fines or penalties, when the violation
21 pertains to building, plumbing, electrical, or other similar structural
22 or zoning issues, that do not create an immediate danger to health
23 or safety.

24 (b) (1) Notwithstanding the provisions of Section 1094.5 or
25 1094.6 of the Code of Civil Procedure, within 20 days after service
26 of the final administrative order or decision of the local agency is
27 made pursuant to an ordinance enacted in accordance with this
28 section regarding the imposition, enforcement or collection of the
29 administrative fines or penalties, a person contesting that final
30 administrative order or decision may seek review by filing an
31 appeal to be heard by the superior court, where the same shall be
32 heard de novo, except that the contents of the local agency's file
33 in the case shall be received in evidence. A proceeding under this
34 subdivision is a limited civil case. A copy of the document or
35 instrument of the local agency providing notice of the violation
36 and imposition of the administrative fine or penalty shall be
37 admitted into evidence as prima facie evidence of the facts stated
38 therein. A copy of the notice of appeal shall be served in person
39 or by first-class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be as specified in Section 70615. The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the fee specified in Section 70615 regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.

~~SECTION 1. Section 25132 of the Government Code is amended to read:~~

~~25132. (a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.~~

~~(b) Every violation determined to be an infraction is punishable by the following:~~

~~(1) A fine not exceeding one hundred dollars (\$100) for a first violation.~~

~~(2) A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year.~~

~~(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.~~

~~(e) Notwithstanding any other provision of law, a violation of a local building and safety ordinance, brush removal ordinance, grading ordinance, film permit ordinance, or zoning ordinance determined to be an infraction may be punishable by a fine~~

1 established by ordinance that is subject to all of the following
2 requirements:

3 (1) ~~The amount of the fine for the first violation does not exceed~~
4 ~~the amount of the permit fee required by the ordinance multiplied~~
5 ~~by three or five thousand dollars (\$5,000), whichever is less. In~~
6 ~~the absence of a permit fee, the amount of the fine does not exceed~~
7 ~~one thousand dollars (\$1,000).~~

8 (2) ~~The amount of the fine for a second violation of the same~~
9 ~~ordinance within five years of the first violation does not exceed~~
10 ~~the amount of the permit fee required by the ordinance multiplied~~
11 ~~by five, or ten thousand dollars (\$10,000), whichever is less. In~~
12 ~~the absence of a permit fee, the amount of the fine shall not exceed~~
13 ~~two thousand five hundred dollars (\$2,500).~~

14 (3) ~~The amount of the fine for the third violation and subsequent~~
15 ~~violations of the same ordinance within five years of the first~~
16 ~~violation is greater than ten thousand dollars (\$10,000), but does~~
17 ~~not exceed fifteen thousand dollars (\$15,000). In the absence of a~~
18 ~~permit fee, the amount of the fine shall not exceed five thousand~~
19 ~~dollars (\$5,000).~~

20 (4) ~~The amount of the fine is based upon the severity of the~~
21 ~~threat to public health and safety.~~

22 (d) ~~If an ordinance described in subdivision (c) that is~~
23 ~~determined to be an infraction is not subject to a fine established~~
24 ~~by ordinance as set forth in subdivision (c), the violation of that~~
25 ~~ordinance shall be subject to a fine described in subdivision (b).~~

26 ~~SEC. 2.~~

27 *SEC. 3.* If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.